

O'Connor initially maintained that, notwithstanding Patrick O'Connor's description of the Hudson application in his May 8 letter, she understood the Hudson matter to be a "policy" matter, not an adjudicative or even quasi-adjudicative matter.³²² She stated that with regard to "policy" matters, there was no problem with the White House's weighing in or advocating a specific outcome.³²³

As reflected in Jennifer O'Connor's May 18 memo, Sibbison informed O'Connor that the decision whether to take land into trust to facilitate the creation of an Indian casino was within the discretion of the Secretary. Sibbison stated that the Department was in the process of reviewing the Hudson application, and that the "staff" had met the previous night, May 17, and had arrived at the preliminary decision to deny the request. After providing some of the reasons Interior was leaning against the proposal, Sibbison stated that the Department was reviewing the comments received during the comment period, which had ended April 30, and that the decision would be final in one month.³²⁴

³²²OIC Interview of Jennifer O'Connor, April 2 and 9, 1999, at 5 (hereinafter "OIC J. O'Connor Int., April 2 and 9, 1999").

³²³*Id.*

³²⁴As memorialized in Jennifer O'Connor's memo, Sibbison indicated three main reasons for the preliminary decision to deny the Hudson application: 1) the "almost uniform[]" opposition of the local community; 2) the uniform opposition of the Minnesota congressional delegation, fueled by the opposition of the Minnesota tribes located near Hudson, and 3) the desire to avoid shining a spotlight on the Indian Gaming Regulatory Act, which could face amendment or repeal in the face of resulting negative attention if the application were to be granted.

Sibbison also informed Ms. O'Connor of a primary argument favoring approval, that of free market economics. She noted that some DOI staff worried that the "bottom line" of the opposition is that other tribes that already have successful casinos in the area oppose the Hudson application out of fear of competition, and are able to hire "bigger lobbyists" than the applicants. However, Sibbison noted, the staff did not believe that concerns over this aspect of the

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